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RESOLUTION 1166 (1998)

Adopted by the Security Council at its 3878th meeting,
on 13 May 1998

The Security Council,

Reaffirming its resolution 827 (1993) of 25 May 1993,

Remaining convinced that the prosecution of persons responsible for serious violations of international humanitarian law committed in the territory of the former Yugoslavia contributes to the restoration and maintenance of peace in the former Yugoslavia,

Having considered the letter from the Secretary-General to the President of the Security Council dated 5 May 1998 (S/1998/376),

Convinced of the need to increase the number of judges and Trial Chambers, in order to enable the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991 ("the International Tribunal") to try without delay the large number of accused awaiting trial,

Noting the significant progress being made in improving the procedures of the International Tribunal, and convinced of the need for its organs to continue their efforts to further such progress,

Acting under Chapter VII of the Charter of the United Nations,

1. Decides to establish a third Trial Chamber of the International Tribunal, and to this end decides to amend articles 11, 12 and 13 of the Statute of the International Tribunal and to replace those articles with the provisions set out in the annex to this resolution;

2. Decides that three additional judges shall be elected as soon as possible to serve in the additional Trial Chamber, and decides also, without prejudice to article 13.4 of the Statute of the International Tribunal, that once elected they shall serve until the date of the expiry of the terms of office of the existing judges, and that for the purpose of that election the

Security Council shall, notwithstanding article 13.2 (c) of the Statute, establish a list from the nominations received of not less than six and not more than nine candidates;

3. Urges all States to cooperate fully with the International Tribunal and its organs in accordance with their obligations under resolution 827 (1993) and the Statute of the International Tribunal and welcomes the cooperation already extended to the Tribunal in the fulfilment of its mandate;

4. Requests the Secretary-General to make practical arrangements for the elections mentioned in paragraph 2 above and for enhancing the effective functioning of the International Tribunal, including the timely provision of personnel and facilities, in particular for the third Trial Chamber and related offices of the Prosecutor, and further requests him to keep the Security Council closely informed of progress in this regard;

5. Decides to remain actively seized of the matter.

ANNEX

Article 11

Organization of the International Tribunal

The International Tribunal shall consist of the following organs:

(a) The Chambers, comprising three Trial Chambers and an Appeals Chamber,

(b) The Prosecutor, and

(c) A Registry, servicing both the Chambers and the Prosecutor.

Article 12

Composition of the Chambers

The Chambers shall be composed of fourteen independent judges, no two of whom may be nationals of the same State, who shall serve as follows:

(a) Three judges shall serve in each of the Trial Chambers;

(b) Five judges shall serve in the Appeals Chamber.

Article 13

Qualifications and election of judges

1. The judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers due account shall be taken of the experience of the judges in criminal law, international law, including international humanitarian law and human rights law.

2. The judges of the International Tribunal shall be elected by the General Assembly from a list submitted by the Security Council, in the following manner:

(a) The Secretary-General shall invite nominations for judges of the International Tribunal from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters;

(b) Within sixty days of the date of the invitation of the Secretary-General, each State may nominate up to two candidates meeting the qualifications set out in paragraph 1 above, no two of whom shall be of the same nationality;

(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than twenty-eight and not more than forty-two

candidates, taking due account of the adequate representation of the principal legal systems of the world;

(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect the fourteen Judges of the International Tribunal. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters, shall be declared elected. Should two candidates of the same nationality obtain the required majority vote, the one who received the higher number of votes shall be considered elected.

3. In the event of a vacancy in the Chambers, after consultation with the Presidents of the Security Council and of the General Assembly, the Secretary-General shall appoint a person meeting the qualifications of paragraph 1 above, for the remainder of the term of office concerned.

4. The judges shall be elected for a term of four years. The terms and conditions of service shall be those of the judges of the International Court of Justice. They shall be eligible for re-election.